



FIRE JUL 14 2008 #1

THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: **July 10, 2008** REPORT NO: **08-105**

ATTENTION: Ad Hoc Fire Prevention and Recovery Committee
Agenda of July 14, 2008

SUBJECT: Update on the Status of Leases in San Pasqual Valley

REFERENCE: San Pasqual Vision Plan;
San Pasqual Groundwater Management Plan

REQUESTED ACTION: None

STAFF RECOMMENDATION: N/A

SUMMARY:

The Ad Hoc Fire Prevention and Recovery Committee (Ad Hoc Committee) has asked for a briefing from the Water Department detailing the current recovery efforts and the status of leases in San Pasqual Valley that were affected by the October 2007 fires. The following information is provided in response.

As background, the Water Department owns 8,100 acres in San Pasqual Valley. The land was acquired in the 1940's and 1950's for water supply purposes. 5,400 acres of land is leased for agricultural uses, which must be consistent with protection of water resources. A total of 57 leases are in place on Water Department land, 40 of which are for agricultural purposes.

Lease management is a coordinated effort between the Water Department and the Real Estate Assets Department, which manages the properties on behalf of the water fund. Most of the leases in San Pasqual Valley have years remaining in their term, with expirations occurring from 2009 to 2026. Typical lease terms are for 10 to 30 years, however some terms are as short as 5 years or as long as 46 years.

Currently, 15 leases are past their expiration date and are continuing on a monthtomonth basis under the terms of the existing agreement. These include leases for avocado production, nursery operations, dairy operations, and row crops.. It is the goal of the Water Department to continue discussions with lessees in an effort to establish new leases or, in some cases, lease renewals that are mutually beneficial.

Many of the Water Department's leased properties were damaged in the October 2007 wildfires. Twenty-three agricultural operations suffered some level of damage to crops, storage buildings or irrigation systems. At its previous meetings, the Ad Hoc Committee has received public testimony from some of the lessee's whose property was damaged in the fires. Of concern to these constituents was the need to focus fire recovery efforts on San Pasqual Valley and to rapidly renegotiate new leases or lease extensions for fire victims in order to provide the basis for their acquisition of the financing necessary to rebuild damaged operations. The Water Department, along with the Real Estates Assets Department, are committed to moving forward with San Pasqual fire recovery efforts and to review and renegotiation fire-damaged leases on a priority basis. The following summarizes these efforts to date:

1. Clean-up has been completed on all Water Department property damaged by the October fire. Application for Federal Emergency Management (FEMA) reimbursement has been made (and accepted) to recover the costs associated with cleanup and reconstruction of damaged facilities.
2. The Water Department has partnered with other entities to secure grant funding to rehabilitate fire-damaged natural habitats in San Pasqual Valley. These habitat areas are not leased for agricultural uses, but are important for the overall health of the Valley.
3. The wildfires removed heavy vegetation and left exposed areas with trash, debris, and other environmental concerns. The Water Department, Environmental Services Department, READ, and the San Dieguito River Park JPA have acted to clean-up many of these areas.
4. Staff has actively negotiated lease extensions or renewals with the four (fire-affected) leases (*Suncoast Botanicals*, *Henry Ranch*, *Rancho de Loma* and *Robert L. Smith*), which have been designated as "priority" leases by representatives from the San Pasqual Valley:
 - a. Several individual and collective meetings have taken place, including meetings with the San Pasqual Valley Land Use Task Force, to discuss general lease provisions and principles which have formed the foundation for renegotiating leases on Water Department property.
 - b. Multiple discussions have taken place with *Suncoast Botanicals* regarding terms and conditions of lease amendment. Unfortunately, while the City and lessee have come to agreement on many technical issues, we have as yet been unable to conclude the requested lease extension. The lessee has filed a Public Records Act Request for copies of all City leases in the San Pasqual Valley. We are currently responding to such request.
 - c. The lease negotiation with *Rancho de la Loma* has been completed. The lease addresses the desires of the lessee and incorporates the general provisions and principles of the Water Department. READ is currently preparing the 1472 and Mayor's Report to route for Council approval.

- d. A draft lease agreement has been sent to *Henry Ranch* for consideration. In addition, READ has been actively coordinating with the lessee on the completion of fire debris removal. Given the difficulties experienced by the lessee this spring, the Water Department agreed to perform the debris removal on the leasehold, and the costs for such removal (\$157,000) have been invoiced back to the lessee for payment under terms of the current lease.
- e. We have met with Michael Smith, the operator for Robert L. Smith, the final lessee identified as a priority. At this point we are awaiting the "business development plan" which is a pre-requisite for lease negotiations. Such a plan outlines the intended purpose to which the leasehold will be utilized and provides the basis for the City to evaluate the ability of a potential lessee to meet the terms and conditions of the proposed lease.

Renegotiation of leases for the San Pasqual Valley has involved considerable review by the Water Department. A key concern in this review has been ensuring that renegotiated leases have provisions which are in harmony with the objectives and goals outlined in both the San Pasqual Valley Vision Plan and the previously adopted San Pasqual Valley Groundwater Management Plan. Both of these documents recognize the need to manage the San Pasqual Valley to protect its water, agricultural, biological and cultural resources (See San Pasqual Vision Plan Council Policy 600-45).

Balancing the desires of individual lessees against broader policy goals can be challenging. The Groundwater Management Plan, for example, outlined the need to improve monitoring of the groundwater basin in San Pasqual Valley, the need to address water quality issues associated with nitrates and TDS levels, as well as the need to develop a more comprehensive groundwater monitoring plan to locate the source of 10 constituents within the groundwater that exceed contaminant levels and quality objectives outlined by the Regional Water Quality Control Board. In addition, to bring leases into compliance with the recently adopted plan, leases need to be revised to reflect water as a stand alone commodity rather than a component of the rent.

Ensuring that these complex issues are addressed as the 57 leases in the valley are amended and renegotiated in turn is critical to meeting the long-term objectives encompassed in the groundwater management and vision plans. The Water Department and Real Estate Assets Department are reviewing these leases with these long-term objectives in mind.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: On January 14, 2002, the Ad Hoc Committee received a status report from the Water Department and the Real Estates Assets Department regarding the San Pasqual Leaseholders Affected by the 2007 Wildfires. An additional update was provided to the Ad Hoc Committee on February 8, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Water Department and Real Estate Assets staff will continue to present an update on the status of lease


issues, as well as other issues of concern to the constituents, to the San Pasqual Land Use Task Force.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water Department, San Pasqual Valley Land Use Task Force, San Pasqual Valley Community Planning Group, San Pasqual Valley lessees. It is expected that renegotiated leases will provide improved water quality and monitoring of the groundwater basin, while also refining long-term lease commitments of the City.

 7/9/08

Alex Ruiz
Assistant Director,
Water Department



J.M. Barrett
Director of Public Utilities